

<div>CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795</div> <div>STAFF REPORT</div>		Hearing Date/Agenda Number P.C. 01-23-02 Item.
		File Number CP 01-12-104
		Application Type Conditional Use Permit
		Council District 8
		Planning Area Evergreen
		Assessor's Parcel Number(s) 660-21-023
PROJECT DESCRIPTION		Completed by: John W. Baty
Location: East side of San Felipe Buena Road 1,500 feet northerly of Yerba Buena Road (Evergreen Community College)		
Gross Acreage: 100.79	Net Acreage: 100.79	Net Density: N/A
Existing Zoning: R-1-5 Residential	Existing Use: College Corporation Yard	
Proposed Zoning: No change	Proposed Use: Four building-mounted cellular antennas	
GENERAL PLAN		Completed by: JB
Land Use/Transportation Diagram Designation Public/Quasi-Public		Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations
SURROUNDING LAND USES AND ZONING		Completed by: JB
North: Evergreen Creek, Single-family detached residential	R-1-5 Residence, A(PD)	
East: College	R-1-5 Residence	
South: Commercial, College	A(PD), R-1-5 Residence	
West: Senior Housing, Single-family detached residential,	A(PD), R-1-8 Residence	
ENVIRONMENTAL STATUS		Completed by: JB
<input type="checkbox"/> Environmental Impact Report found complete <input type="checkbox"/> Negative Declaration circulated on <input type="checkbox"/> Negative Declaration adopted on		<input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete
FILE HISTORY		Completed by: JB
Annexation Title: Evergreen 1-B		Date: 4/22/60
PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Approval with Conditions <input type="checkbox"/> Denial <input type="checkbox"/> Uphold Director's Decision	Date: _____ <input type="checkbox"/> _____	Approved by: _____ <input checked="" type="checkbox"/> Action <input type="checkbox"/> Recommendation
OWNER	APPLICANT/DEVELOPER	
San José Evergreen Community College District 4750 San Felipe Road San José, CA 95135	Nextel Communications 1255 Treat Boulevard, Suite 800 Walnut Creek, CA 94596	

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: John W. Baty

Department of Public Works

No comments

Other Departments and Agencies

N/A

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The developer, Nextel Communications, is requesting a Conditional Use Permit to allow the installation of four wireless communication antennas on the roof top of existing maintenance building on the Evergreen Community College Campus. The Zoning Ordinance requires a Conditional Use Permit for wireless communication antennas located in a residential zoning district. The existing building has eight (8) existing wireless communication antennas located on the roof which were previously approved. Four of the existing antennas are also owned by Nextel.

In 1996, staff explored the issues of electromagnetic radiation to determine if emissions from antennas of the proposed type posed a public health concern. Staff found that the low-frequency, low-energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined that the reported interference resulted from cordless telephones and not from the antennas.

Project Description

The proposed project consists of the installation of four wireless communication antennas clustered on the east side of an existing 25-foot-tall metal sided maintenance building. The existing building is located on the north side of the college campus. Associated equipment will be housed in an existing 200 square foot equipment shelter located next to the west side of the building.

The antennas will be located approximately 85 feet from the nearest perimeter property line and approximately 185 feet from the closest existing single-family residences across Evergreen Creek on Falls Creek Drive to the north. Additionally, the proposed antennas will be located approximately 1,600 feet from San Felipe Road to the west. The new antennas would be mounted to the side of the building such that they are no higher than the height of the existing building.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from environmental review under the provisions of the California Environmental Quality Act pursuant to section 15303 regarding the new construction or Conversion of Small Structures in that this project proposes the installation of small new equipment.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the subject site's General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public in that this category is used to designate lands used by private entities and the facilities of any organization involved in the provision of public services such as telecommunications.

ANALYSIS

The primary issues analyzed for the project include; 1) Conformance to the Zoning Ordinance, and 2) Conformance to Council Policy 6-20, Land Use Policy for Wireless Communications Antennas.

Conformance to the Zoning Ordinance Requirements

The maximum building height for structures in the R-1-5 Residence Zoning District, which includes most building-mounted structures and appurtenances, is 35 feet. The new antenna will be mounted on the side of the structures so that the height of the antennas will not exceed 25 feet.

The ordinance requires that building-mounted antennas be architecturally integrated into the building, and that they not contribute to visual clutter. The proposed antennas have been designed and placed to have a minimal degree of visibility and they will not create visual clutter on the building. They will be mounted close to the face of the building wall and painted to match the existing building color in order to minimize their visibility.

Conformance to the Council Policy for Wireless Communications Facilities

The proposed project conforms to key applicable elements of the Council policy. The policy recommends building mounted antennas to be located a minimum of 50 feet horizontally from any property with a residential use or General Plan designation. Consistent with intent of the Council policy, the proposed antennas are located approximately 185 feet horizontally from existing single-family residences.

The proposed antenna conforms to the policy guidelines for height in that the subject antenna does not project more than 10 feet above the height of the building. The antennas will not extend above the height of the existing building.

The Council Policy requires building-mounted antennas to be located as to minimize visual impacts, and to be architecturally integrated into the structure. It also requires ancillary equipment to be screened. The proposed antennas and equipment cabinet are set well back from the public right-of-way and from existing residences in the area. Existing landscaping will serve as adequate screening from off-site.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Public/Quasi-Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-5 Residence Zoning District.
3. The project is located approximately 185 feet from the nearest residential use.
4. The subject building has landscaping that will help screen the subject antennas from off-site.
5. The proposed project installs a total of four wireless communication antennas mounted on the east facing exterior wall of an existing building. The proposed antennas would have a maximum height of approximately 25 feet and do not extend above the height of the existing roof.
6. Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project conforms to the City's General Plan.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with City Council Policy 6-20: Land Use Policy for Wireless Communication Facilities.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the

surrounding area; or

- b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
- a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "dba Nextel Communications, Evergreen Valley College CA-1045A" dated September 28, 2001, on file with the Department of Planning, Building and Code Enforcement, and to the San José

Building Code (San José Municipal Code, Title 24).

2. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
4. **Lighting.** This permit allows no new on-site lighting.
5. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
6. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
7. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 01-12-104 shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
8. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as required. The exact location shall be specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
9. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
10. **Fire Flow.** Required fire flow for the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
11. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
12. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
13. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours

of defacement.

14. **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements associated with this permit within 30 days.
15. **Generators.** This permit does not include approval of emergency back-up generator on the subject site.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.